

REFERENCE TITLE: legislative referendum; limitation

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

HCR 2007

Introduced by
Representatives Ableser: Campbell CH

A CONCURRENT RESOLUTION

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF ARIZONA; AMENDING ARTICLE IV, PART 1, SECTION 1, AND ARTICLE XXI, SECTION 1, CONSTITUTION OF ARIZONA; RELATING TO REFERENDA.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it resolved by the House of Representatives of the State of Arizona, the
2 Senate concurring:

3 1. Article IV, part 1, section 1, Constitution of Arizona, is proposed
4 to be amended as follows if approved by the voters and on proclamation of the
5 Governor:

6 1. Legislative authority: initiative and referendum

7 Section 1. (1) Senate; house of representatives;
8 reservation of power to people. The legislative authority of
9 the state shall be vested in the legislature, consisting of a
10 senate and a house of representatives, but the people reserve
11 the power to propose laws and amendments to the constitution and
12 to enact or reject such laws and amendments at the polls,
13 independently of the legislature; and they also reserve, for use
14 at their own option, the power to approve or reject at the polls
15 any act, or item, section, or part of any act, of the
16 legislature.

17 (2) Initiative power. The first of these reserved powers
18 is the initiative. Under this power ten per ~~centum~~ CENT of the
19 qualified electors shall have the right to propose any measure,
20 and fifteen per ~~centum~~ CENT shall have the right to propose any
21 amendment to the constitution.

22 (3) Referendum power; emergency measures; effective date
23 of acts. The second of these reserved powers is the referendum.
24 Under this power the legislature, or five per ~~centum~~ CENT of the
25 qualified electors, may order the submission to the people at
26 the polls of any measure, or item, section, or part of any
27 measure, enacted by the legislature, except laws immediately
28 necessary for the preservation of the public peace, health, or
29 safety, or for the support and maintenance of the departments of
30 the state government and state institutions; but to allow
31 opportunity for referendum petitions, no act passed by the
32 legislature shall be operative for ninety days after the close
33 of the session of the legislature enacting such measure, except
34 such as require earlier operation to preserve the public peace,
35 health, or safety, or to provide appropriations for the support
36 and maintenance of the departments of the state and of state
37 institutions; provided, that no such emergency measure shall be
38 considered passed by the legislature unless it shall state in a
39 separate section why it is necessary that it shall become
40 immediately operative, and shall be approved by the affirmative
41 votes of two-thirds of the members elected to each house of the
42 legislature, taken by roll call of ayes and nays, and also
43 approved by the governor; and should such measure be vetoed by
44 the governor, it shall not become a law unless it shall be
45 approved by the votes of three-fourths of the members elected to

each house of the legislature, taken by roll call of ayes and nays.

(4) Initiative and referendum petitions; filing. All petitions submitted under the power of the initiative shall be known as initiative petitions, and shall be filed with the secretary of state not less than four months preceding the date of the election at which the measures so proposed are to be voted upon. All petitions submitted under the power of the referendum shall be known as referendum petitions, and shall be filed with the secretary of state not more than ninety days after the final adjournment of the session of the legislature which shall have passed the measure to which the referendum is applied. The filing of a referendum petition against any item, section, or part of any measure shall not prevent the remainder of such measure from becoming operative.

(5) Effective date of initiative and referendum measures. Any measure or amendment to the constitution proposed under the initiative, and any measure to which the referendum is applied, shall be referred to a vote of the qualified electors, and shall become law when approved by a majority of the votes cast thereon and upon proclamation of the governor, and not otherwise.

(6) (A) Veto of initiative or referendum. The veto power of the governor shall not extend to an initiative measure approved by a majority of the votes cast thereon or to a referendum measure decided by a majority of the votes cast thereon.

(6) (B) Legislature's power to repeal initiative or referendum. The legislature shall not have the power to repeal an initiative measure approved by a majority of the votes cast thereon or to repeal a referendum measure decided by a majority of the votes cast thereon.

(6) (C) Legislature's power to amend initiative or referendum. The legislature shall not have the power to amend an initiative measure approved by a majority of the votes cast thereon, or to amend a referendum measure decided by a majority of the votes cast thereon, unless the amending legislation furthers the purposes of such measure and at least three-fourths of the members of each house of the legislature, by a roll call of ayes and nays, vote to amend such measure.

(6) (D) Legislature's power to appropriate or divert funds created by initiative or referendum. The legislature shall not have the power to appropriate or divert funds created or allocated to a specific purpose by an initiative measure approved by a majority of the votes cast thereon, or by a referendum measure decided by a majority of the votes cast

thereon, unless the appropriation or diversion of funds furthers the purposes of such measure and at least three-fourths of the members of each house of the legislature, by a roll call of ayes and nays, vote to appropriate or divert such funds.

(7) Number of qualified electors. The whole number of votes cast for all candidates for governor at the general election last preceding the filing of any initiative or referendum petition on a state or county measure shall be the basis on which the number of qualified electors required to sign such petition shall be computed.

(8) Local, city, town or county matters. The powers of the initiative and the referendum are hereby further reserved to the qualified electors of every incorporated city, town, and county as to all local, city, town, or county matters on which such incorporated cities, towns, and counties are or shall be empowered by general laws to legislate. Such incorporated cities, towns, and counties may prescribe the manner of exercising said powers within the restrictions of general laws. Under the power of the initiative fifteen per ~~centum~~ CENT of the qualified electors may propose measures on such local, city, town, or county matters, and ten per ~~centum~~ CENT of the electors may propose the referendum on legislation enacted within and by such city, town, or county. Until provided by general law, said cities and towns may prescribe the basis on which said percentages shall be computed.

(9) Form and contents of initiative and of referendum petitions; verification. Every initiative or referendum petition shall be addressed to the secretary of state in the case of petitions for or on state measures, and to the clerk of the board of supervisors, city clerk, or corresponding officer in the case of petitions for or on county, city, or town measures; and shall contain the declaration of each petitioner, for himself, that he is a qualified elector of the state (and in the case of petitions for or on city, town, or county measures, of the city, town, or county affected), his post office address, the street and number, if any, of his residence, and the date on which he signed such petition. Each sheet containing petitioners' signatures shall be attached to a full and correct copy of the title and text of the measure so proposed to be initiated or referred to the people, and every sheet of every such petition containing signatures shall be verified by the affidavit of the person who circulated said sheet or petition, setting forth that each of the names on said sheet was signed in the presence of the affiant and that in the belief of the affiant each signer was a qualified elector of the state, or in

1 the case of a city, town, or county measure, of the city, town,
2 or county affected by the measure so proposed to be initiated or
3 referred to the people.

4 (10) Official ballot. EXCEPT AS PROVIDED IN SUBSECTION
5 (15), when any initiative or referendum petition or any measure
6 referred to the people by the legislature shall be filed, in
7 accordance with this section, with the secretary of state, he
8 shall cause to be printed on the official ballot at the next
9 regular general election the title and number of said measure,
10 together with the words "yes" and "no" in such manner that the
11 electors may express at the polls their approval or disapproval
12 of the measure.

13 (11) Publication of measures. The text of all measures to
14 be submitted shall be published as proposed amendments to the
15 constitution are published, and in submitting such measures and
16 proposed amendments the secretary of state and all other
17 officers shall be guided by the general law until legislation
18 shall be especially provided therefor.

19 (12) Conflicting measures or constitutional amendments. If
20 two or more conflicting measures or amendments to the
21 constitution shall be approved by the people at the same
22 election, the measure or amendment receiving the greatest number
23 of affirmative votes shall prevail in all particulars as to
24 which there is conflict.

25 (13) Canvass of votes; proclamation. It shall be the duty
26 of the secretary of state, in the presence of the governor and
27 the chief justice of the supreme court, to canvass the votes for
28 and against each such measure or proposed amendment to the
29 constitution within thirty days after the election, and upon the
30 completion of the canvass the governor shall forthwith issue a
31 proclamation, giving the whole number of votes cast for and
32 against each measure or proposed amendment, and declaring such
33 measures or amendments as are approved by a majority of those
34 voting thereon to be law.

35 (14) Reservation of legislative power. This section shall
36 not be construed to deprive the legislature of the right to
37 enact any measure except that the legislature shall not have the
38 power to adopt any measure that supersedes, in whole or in part,
39 any initiative measure approved by a majority of the votes cast
40 thereon or any referendum measure decided by a majority of the
41 votes cast thereon unless the superseding measure furthers the
42 purposes of the initiative or referendum measure and at least
43 three-fourths of the members of each house of the legislature,
44 by a roll call of ayes and nays, vote to supersede such
45 initiative or referendum measure.

(15) Legislature's right to refer measure to the people. Nothing in this section shall be construed to deprive or limit the legislature of the right to order the submission to the people at the polls of any measure, item, section, or part of any measure, EXCEPT THAT NOT MORE THAN THREE MEASURES SUBMITTED TO THE PEOPLE BY THE LEGISLATURE MAY BE PRINTED ON THE OFFICIAL BALLOT. IF THE LEGISLATURE FILES MORE THAN THREE MEASURES WITH THE SECRETARY OF STATE, THE SECRETARY OF STATE SHALL PRINT THE THREE MEASURES RECEIVING THE GREATEST NUMBER OF AFFIRMATIVE VOTES CAST BY THE MEMBERS OF EACH HOUSE OF THE LEGISLATURE. IF TWO OR MORE MEASURES RECEIVE THE SAME NUMBER OF AFFIRMATIVE VOTES CAST BY THE MEMBERS OF EACH HOUSE OF THE LEGISLATURE, AND ONE OR MORE OF THE MEASURES MAY NOT BE PRINTED ON THE OFFICIAL BALLOT PURSUANT TO THIS SUBSECTION, THE ORDER OF FILING WITH THE SECRETARY OF STATE SHALL DETERMINE WHICH MEASURE OR MEASURES ARE PRINTED ON THE OFFICIAL BALLOT.

(16) Self-executing. This section of the constitution shall be, in all respects, self-executing.

2. Article XXI, section 1, Constitution of Arizona, is proposed to be amended as follows if approved by the voters and on proclamation of the Governor:

1. Introduction in legislature; initiative petition; election

Section 1. Any amendment or amendments to this constitution may be proposed in either house of the legislature, or by initiative petition signed by a number of qualified electors equal to fifteen per centum CENT of the total number of votes for all candidates for governor at the last preceding general election. Any proposed amendment or amendments which shall be introduced in either house of the legislature, and which shall be approved by a majority of the members elected to each of the two houses, shall be entered on the journal of each house, together with the ayes and nays thereon. When any proposed amendment or amendments shall be thus passed by a majority of each house of the legislature and entered on the respective journals thereof, or when any elector or electors shall file with the secretary of state any proposed amendment or amendments together with a petition therefor signed by a number of electors equal to fifteen per centum CENT of the total number of votes for all candidates for governor in the last preceding general election, the secretary of state shall submit such proposed amendment or amendments to the vote of the people at the next general election, ~~—except when~~ THAT NOT MORE THAN THREE PROPOSED AMENDMENTS SUBMITTED TO THE PEOPLE BY THE LEGISLATURE MAY BE PRINTED ON THE OFFICIAL BALLOT. IF THE

1 LEGISLATURE FILES MORE THAN THREE PROPOSED AMENDMENTS WITH THE
2 SECRETARY OF STATE, THE SECRETARY OF STATE SHALL PRINT THE THREE
3 PROPOSED AMENDMENTS RECEIVING THE GREATEST NUMBER OF AFFIRMATIVE
4 VOTES CAST BY THE MEMBERS OF EACH HOUSE OF THE LEGISLATURE. IF
5 TWO OR MORE PROPOSED AMENDMENTS RECEIVE THE SAME NUMBER OF
6 AFFIRMATIVE VOTES CAST BY THE MEMBERS OF EACH HOUSE OF THE
7 LEGISLATURE, AND ONE OR MORE OF THE PROPOSED AMENDMENTS MAY NOT
8 BE PRINTED ON THE OFFICIAL BALLOT PURSUANT TO THIS SECTION, THE
9 ORDER OF FILING WITH THE SECRETARY OF STATE SHALL DETERMINE
10 WHICH PROPOSED AMENDMENT OR AMENDMENTS ARE PRINTED ON THE
11 OFFICIAL BALLOT. IF the legislature shall call a special
12 election for the purpose of having said proposed amendment or
13 amendments voted upon, ~~in which case~~ the secretary of state
14 shall submit such proposed amendment or amendments to the
15 qualified electors at said special election. ~~,) and~~ If a
16 majority of the qualified electors voting thereon shall approve
17 and ratify such proposed amendment or amendments in said regular
18 or special election, such amendment or amendments shall become a
19 part of this constitution. Until a method of publicity is
20 otherwise provided by law, the secretary of state shall have
21 such proposed amendment or amendments published for a period of
22 at least ninety days previous to the date of said election in at
23 least one newspaper in every county of the state in which a
24 newspaper shall be published, in such manner as may be
25 prescribed by law. If more than one proposed amendment shall be
26 submitted at any election, such proposed amendments shall be
27 submitted in such manner that the electors may vote for or
28 against such proposed amendments separately.

29 3. The Secretary of State shall submit this proposition to the voters
30 at the next general election as provided by article XXI, Constitution of
31 Arizona.